HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO: 11123 of 2006

Dated 8th November, 2006

Between:

Sayyaparaju Venkata Ramaraju, son of Tirupathi Raju, 55 years, resident of Pothumatla hamlet of Chintalapalli, Razole Mandal, East Godavari District.

. Petitioner.

And:

1. Gram Panchayat, Chintalapalli, Razole Mandal, East Godavari District and others.

…Respondents

ORDER:

The matter is coming up for admission. This Court ordered notice before admission on 6-6-2006 and directed status quo to be maintained for a period of three weeks. The 1st respondent filed counter-affidavit and the learned A.G.P. representing 2nd respondent

had placed instructions received by him before this Court.

2. This writ petition is filed seeking to issue writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in constructing the sitting benches with shed in road margin at 0/10 km, Malkipuram road from Chintapalli bridge of Razole Mandal, East Godavari District without considering the objections dated 1-6-2006 and also notice dated 2-6-2006 of the 2nd respondent as illegal, arbitrary and violative of fundamental rights guaranteed under Constitution of India and consequently, direct the respondents not to take up any work in the said road margin.

3. It is stated that the writ petitioner is the owner and possessor of the house bearing No.7-82 Chintapalli Gram Panchayat of Razole Mandal, East Godavari District and there are a canal abutting the main R&B Road and also a bridge connecting main road and Pippalavarimeraka on Eastern side and a big tree near the bridge. It is also stated that the house of the petitioner is about 100 metres away from the bridge and there is also a ramp into the colony to take water by the womenfolk for their domestic purposes. It is also stated that when the gathering sitting under the tree has been teasing the ladies and the girls who are coming to the canal to take water etc., the elders intervened and disbursed the gathering in many times. It is also stated that the 1st respondent, contrary to the wishes of the majority of the villagers, intends to construct the sitting benches with shed between the tree and the bridge and for that purpose, the material has been dumped at the place. It is also stated that on a complaint, the 2nd respondent had issued a notice to the 1st respondent on 2-6-2006 intimating that no construction is permitted in R&B site, particularly, in the road margin and the 2nd respondent also instructed the 1st respondent to remove all the material. In spite of the same, the 1st respondent is proceeding further to construct the sitting shed. It is

further stated that even though the petitioner met the respondents, no action had been taken by the respondents except showing the notice issued by the 2nd respondent. It is also stated that though the 3rd respondent is not connected with the matter, it is informed that he has no objection for the same and hence 3rd respondent was also made a party to the writ petition. It is further stated that if the said facility is provided, much inconvenience would be caused to the villagers. It is further stated that since the petitioner has been residing nearer to the spot, it would cause lot of inconvenience to the petitioner and his family members. It is also stated that the drunkards will create nuisance.

4. In the counter-affidavit filed by the 1st respondent, a specific stand was taken that the womenfolk was not using the canal water for domestic purpose. It is also stated that further construction by the panchayat is only for the comfort of the passengers and not for anybody. However, the instructions given by the 2nd respondent are placed before this Court to the effect that the 2nd respondent issued a notice to the Village Secretary, Gram panchayat on 2-6-2006 not to start the construction for the shelter in R&B road margins. It is also stated that the 2nd respondent issued a notice to the Village Secretary on 6-11-2006 to stop construction work. But the Gram Panchayat had not stopped the work.

5. In the light of the specific stand taken by the learned A.G.P. for R&B, it is needless to say that the objections had been raised in this regard already. When that being so, it would be always appropriate for the 1st respondent Gram Panchayat to take a decision considering the objections which had been raised by the writ petitioner in this regard especially in the light of the stand taken by the 2nd respondent and the objections already raised by the 2nd respondent relating to such constructions.

6. In view of the same, the 1st respondent is hereby directed

to consider all the objections of the petitioner inclusive of the objections which had been already raised by the 2nd respondent to stop further construction and to take an appropriate decision in this regard. Till then, the 1st respondent is directed not to proceed further with any construction whatsoever.

7. With the above direction, the writ petition is disposed of. No order as to costs.

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Justice P.S.NARAYANA

Date: 8th November, 2006.

Dvs

HONOURABLE SRI JUSTICE P.S.NARAYANA

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